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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------|-------------|----------------------|------------------------|------------------|
| 10/086,315 | 03/01/2002 | Kenneth N. Burst JR. | 36968/267739 (BS01446) | 2774 |
| 23552 | 7590 | 12/21/2005 | EXAMINER | |
| MERCHANT & GOULD PC | | | HO, DUC CHI | |
| P.O. BOX 2903 | | | ART UNIT | PAPER NUMBER |
| MINNEAPOLIS, MN 55402-0903 | | | 2665 | |

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,315

Applicant(s)

BURST, KENNETH N.

Examiner

Duc C. Ho

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-45 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5-23-02&5-30-02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. This application is in condition for allowance except for the following formal matters:
The disclosure is objected to because of the following informalities: Please replace the drawing of figure 7 due to its unreadable legends.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

Allowable Subject Matter

2. Claims 1-45 are allowed.

Reason for Allowance

3. Regarding claims 1-12, 14-15, and 17-28, and 37-38, the prior art fails to teach or suggest a method for detecting congestion in a communications network, the method comprises the steps of determining a bearer packet transmission duration for a bearer packet, the bearer packet having a bearer packet transmission priority, wherein the bearer packet transmission priority is lower than the control packet transmission priority, and comparing the delay to a threshold delay, in combination with other limitations, as specified in the independent claims 1, and 17.

Regarding claims 13, 16, and 29-32, the prior art fails to teach or suggest a method for detecting congestion in a communications network, the method comprises the steps of receiving a bearer packet, having a bearer packet transmission priority and a bearer packet source timestamp, wherein the bearer packet transmission priority is lower than the control packet

transmission priority, calculating a queuing delay encounter by the bearer packet by subtracting the control packet transmission duration from the bearer packet transmission duration, and comparing the queuing delay to a threshold delay, in combination with other limitations, as specified in the independent claims 13, and 29.

Regarding claims 33-36, and 39-45, the prior art fails to teach or suggest a system for detecting congestion in a communications network comprising a classifier maker in communication with the control packet generator; a second media gateway in communication with the communications network, wherein the second media gateway comprises a system clock, and a delay calculator in communication with the system clock, in combination with other limitations, as specified in the independent claim 33.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Ho whose telephone number is (571) 272-3147. The examiner can normally be reached on Monday through Friday from 7:00 am to 3:30 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

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6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner

A handwritten signature in black ink, appearing to read 'Duc Ho', written over the printed name.

Duc Ho

12-13-05